



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 5, 1991

Ms. Holly L. Wiseman
Assistant Attorney General
Deputy Chief, Antitrust Division
P.O. Box 12548
Austin, Texas 78711-2548

OR91-388

Dear Ms. Wiseman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12890.

You have received a request for records relating to "all non-privileged information and evidence which lead to your decision to join in the settlement of the Nintendo antitrust matters. . . ." Although you are willing to provide some of the requested information, you claim exemption for the remainder under sections 3(a)(1), 3(a)(3), and 3(a)(8).

Section 3(a)(3) provides the following exception:

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

V.T.C.S. art. 6252-17a, § 3(a)(3).

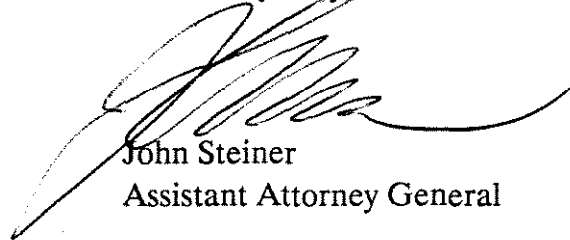
A prior open records decision issued by this office, Open Records Decision No. 551 (1990) addresses the applicability of section 3(a)(3). A section 3(a)(3) claim requires a showing that (1) you are now, or will likely be, a party to civil or

criminal litigation and (2) the requested documents constitute information relating to that litigation. *Id.*

We have examined the exceptions you claimed, specifically sections 3(a)(1), 3(a)(3), and 3(a)(8), and have reviewed the documents at issue. You have adequately demonstrated that you meet the two criteria for claiming exception under section 3(a)(3). With the exception of the filed pleadings and press clippings, you may withhold the requested information. Because we resolve your request under section 3(a)(3), we need not address the applicability of sections 3(a)(1) and 3(a)(8) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-388.

Yours very truly,



John Steiner
Assistant Attorney General

JS/GK/lb

Ref.: ID# 12890, 13120

cc: Gerald V. Barron
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